MINISTRY OF SOCIAL DEVELOPMENT
TE MANATŪ WHAKAHIATO ORA

Report

Date: 10 November 2017 **Security Level:** IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development

Repeal of Section 70A and the Families Package

Purpose of the report

1 In your manifesto you committed to repealing section 70A of the Social Security Act 1964 (the SSA). This section applies a reduction to the benefit rate of a sole parent who does not identify the other parent of their child in law and/or apply for Child Support, subject to some exemptions.

2 There is an opportunity to repeal this provision as part of the legislative changes for the Families Package. Repealing section 70A aligns with the goal of the Families Package to increase incomes of low- and middle-income families. 9(2)(f)(iv)

3 We ask you to indicate your interest in repealing section 70A alongside the Families Package. If you do wish to proceed, this option will need to be discussed with the Minister of Finance and your other Ministerial colleagues involved in the Families Package, given the significant fiscal implications.

4 There are consequential impacts for the Child Support Act 1991 (the CSA) and for Inland Revenue if section 70A is repealed. If you are interested in progressing this work further consultation with, and advice from, Inland Revenue will be sought.

Recommended actions

It is recommended that you:

1 **note** that it is unclear whether section 70A of the Social Security Act 1964 meets its policy objective of encouraging sole parents to establish paternity and apply for Child Support

2 **note** that repealing section 70A would maintain the obligation to apply for Child Support, but remove the benefit reduction for failure to do so

3 **note** that officials will provide you with further advice on allowing Inland Revenue to administer exemptions to Child Support obligations

4 **note** that repealing section 70A would cost at least $25 million per year which could increase depending on any decrease in compliance with Child Support obligations

5 **note** that the Ministry of Social Development considers it feasible to implement the repeal on 1 October 2018

EITHER

6 **indicate** your interest repealing section 70A alongside the Families Package

Agree / Disagree

OR

7 9(2)(f)(iv)

Agree / Disagree

8 **raise** this option at the Families Package Ministers' meeting on Tuesday 14 November at 5pm

Yes / No

9 **forward** this report to the Ministers of Finance, Housing and Urban Development, Revenue, and Children

Agree / Disagree

Simon MacPherson
Deputy Chief Executive Policy

15/11/17
Date

Hon Carmel Sepuloni
Minister for Social Development

Date

The Ministry has previously considered the effectiveness of section 70A

5 In your 2017 election manifesto, you committed to repealing section 70A of the SSA. Section 70A applies a reduction to the benefit rate of a sole parent who does not identify the other parent of their child in law and/or apply for Child Support, subject to some exemptions.

6 The benefit is reduced by $22 for each dependent child for whom the client refuses or fails to meet their Child Support obligations. After 13 weeks a further $6 a week reduction may be applied once only per client, regardless of how many of that client's children the $22 reduction applies to.

7 The policy's intent is to encourage the establishment of paternity and applications for Child Support. This ensures the other parent takes responsibility and contributes to the cost of raising their child.

8 An exemption to the benefit reduction is applied if the Ministry is satisfied that:

- there is insufficient evidence available to establish who is in law the other parent
- the client is taking active steps to identify who in law is the other parent
- the client or their child(ren) would be at risk of violence if the client carried out or took steps to meet their Child Support obligations
- there is another compelling circumstance for the client's failure to meet their Child Support obligations and there is no real likelihood of Child Support being collected, or
- the child was conceived as a result of incest or sexual violation.

9 As at March 2017, 13,268 working-age Sole Parent Support and Jobseeker sole parents have a benefit reduction in place, affecting 16,842 children. Note that we can provide updated numbers if requested.

It is unclear whether section 70A meets its policy objective

10 In October 2016, advice was provided to the previous Minister for Social Development on whether section 70A meets its policy objective to encourage the establishment of paternity and applications for Child Support. The advice concluded that:

- The Ministry does not have sufficient evidence to confirm if the benefit reduction is achieving the policy's intent. In 2004, a review of the policy identified a lack of knowledge of the policy amongst clients and case managers as a significant problem. A team of interview specialists were tasked with interviewing every client with a benefit reduction, which led to a significant increase in compliance with Child Support obligations. This practice has ceased since 2009.
- Compared to other sole parents, clients affected by a reduction have a higher likelihood of long-term welfare receipt and hardship. However, clients with a benefit reduction are no more likely to access hardship assistance than other sole parent beneficiaries.
- Sole Parents consider applying for Child Support in the context of the best interests of their children. If the parent decides to sever all contact with the other parent, and not apply for Child Support, the benefit reduction can penalise them for making a choice they view as being in the best interests of their child.
- Research from the mid-2000s identified several problems with the administration of this policy, which meant that many clients did not understand the policy. Anecdotal evidence suggests this has continued.
- Work and Income offices do not provide the most appropriate environment for discussing the sensitive subject matter of exemptions from a reduction. However, the number of exemptions granted has increased every year since 2006.

11 The Ministry recommended undertaking further research to inform future policy decisions.

There is an opportunity to repeal section 70A alongside the Families Package

12 The Government has committed to passing legislation for the Families Package within the first 100 days of being in Government. This includes amending the SSA.

13 The goal of the Families Package is to increase incomes of low- and middle-income families. Repealing section 70A would increase the incomes of the 13,268 low-income sole parents who currently have a benefit reduction in place. This aligns with the goals of the Families Package.

14 While your broader legislative priorities would also be likely to align with the aims of the Families Package, the repeal of section 70A is the only one that is feasible to progress in the timeframe of the Families Package process. Repealing this section of legislation is relatively simple as it does not require any significant changes to other legislation. Advice on the costs and potential implementation date is provided in paragraphs 25 and 26 below.

15 9(2)(f)(iv)

Repealing section 70A would keep the obligation to apply for Child Support, but remove the benefit reduction

16 The obligation for beneficiaries to apply for Child Support is in section 9 of the CSA. The CSA also outlines a number of exemptions to this obligation, similar to those in the SSA. However, only the Ministry of Social Development (MSD) can administer the exemptions. Inland Revenue cannot apply an exemption, even if a client provides information suggesting they are eligible for one. Anecdotal evidence suggests clients have provided such information to Inland Revenue staff.

17 Section 70A of the SSA states that the rate of benefit for a sole parent shall be reduced if they do not apply meets their Child Support obligations, and do not meet one of the exemption criteria. There is no discretion for MSD to stop the practice. This is in contrast with other sanctions, which have a higher degree of discretion. This means that legislative change is required to stop the benefit reductions.

18 Repealing section 70A of the SSA would remove the benefit reduction, but keep the obligation to make a Child Support application. The exemptions from the obligation would still be in place. Currently, clients in receipt of Unsupported Child's Benefit are treated like this; they have an obligation to apply for Child Support, but do not receive a benefit reduction if they do not.

19 MSD staff will still have conversations with clients about establishing paternity and applying for Child Support, as the Child Support obligation still remains. Child Support forms will be provided alongside benefit applications for sole parents. This provides the opportunity to support sole parents to meet their Child Support obligations. However, there would be no benefit reduction as a result of the conversation.

20 Consequential changes will be required to the CSA to remove reference to the benefit reduction, which would be passed with the repeal of section 70A. This is an opportunity to consider whether Inland Revenue can apply exemptions as well as MSD. Officials will provide you with further advice, after consulting with Inland Revenue, on whether this is appropriate and how it could be operationalised.

Repealing section 70A would cost at least $25 million per year

21 The direct cost of repealing the policy would be approximately $25.5 million in its first year, and $100 million over four years. This is the amount of extra benefit that would be paid as a result of not applying the reduction.

22 The Child Support collected by Inland Revenue is retained by the Crown to offset benefit costs. In 2016, $186.5 million was offset. As we were unable to conclude whether the policy was achieving its policy objective, we cannot predict the likely behavioural change of repealing section 70A. Repealing section 70A could provide an incentive for clients not to apply for Child Support and establish private Child Support arrangements with the other parent. This is because clients would retain their full benefit rate and receive the child support paid privately.

23 A decrease in compliance would reduce the amount of Child Support retained by the Crown to offset benefit costs, increasing the total cost of repeal potentially considerably.

24 You may wish to consider the cost of the repeal in relation to any other priorities you may wish to progress in the short term. 9(2)(f)(iv)

Operational costs and implementation date

25 Repealing section 70A requires changes to MSD's operational practices and IT systems. MSD would also communicate the changes to affected clients and provide information to MSD staff. Operational and IT changes will be a one-off cost of between $500,000 and $1 million. This does not include costs for any communications material. There would also be some minor operational and system impacts for Inland Revenue.

26 MSD does not recommend delivery of the section 70A changes alongside the 1 April or 1 July Families Package due to the size and complexity of that work. MSD is also implementing the Orphan's and Unsupported Child's Benefit Clothing Allowance on 1 July 2018, requiring operational and IT changes. It is feasible to implement the repeal of section 70A on 1 October 2018.

Next Steps

27 If you indicate an interest in repealing section 70A alongside the Families Package, you will need the agreement of your Ministerial colleagues. If you do wish to repeal section 70A as part of the Families Package, we recommend:

- forwarding this report to the Families Package Ministers, including the Ministers of Finance, Housing and Urban Development, Revenue and Children
- discussing the option at the Families Package Ministers' meeting on Tuesday 14 November at 5pm.

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